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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 22nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 14 August 2002, at 3 p.m.

Chairperson: Mr. PINHEIRO

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(a) WOMEN AND HUMAN RIGHTS

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(c) NEW PRIORITIES, IN PARTICULAR, TERRORISM (continued)

The meeting was called to order at 3.10 p.m.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 4) (continued) (E/CN.4/Sub.2/2002/L.8, L.15-L.18, L.20, L.28, L.29, L.33, L.34 and L.50)

1. The CHAIRPERSON said that, to save time, prime sponsors would not be systematically called upon to introduce draft resolutions and decisions, but that they could do so if they so desired.

Draft decision on globalization and its impact on the full enjoyment of all human rights (E/CN.4/Sub.2/2002/L.8)

2. Mr. WEISSBRODT said that the following addition should be inserted into the text, in the fourth line from the end, after the words "enjoyment of human rights,":

> "noting the ongoing work within the International Labour Organization on the issue of globalization including, in particular, of the World Commission on the Social Dimension of Globalization, and requesting the Special Rapporteurs to take it into account when finalizing their study,".

3. Mr. ALFONSO MARTÍNEZ enquired whether the decision to invite two former members of the Sub-Commission to submit their reports at the fifty-fifth session would have financial implications.

4. Mr. WEISSBRODT said that there would be financial implications but that they would fall within the regular budget of the Office of the High Commissioner for Human Rights (OHCHR).

5. Mr. GUISSÉ and Ms. KOUFA said that they wished to become sponsors of the draft decision.

6. The draft decision, as orally revised, was adopted.

Draft resolution on the promotion of the realization of the right to drinking water and sanitation (E/CN.4/Sub.2/2002/L.15)

7. Mr. DOS SANTOS ALVES and Ms. ZERROUGUI said that they wished to become sponsors of the draft resolution.

8. The draft resolution was adopted.

Draft resolution on housing and property restitution in the context of refugees and other displaced persons (E/CN.4/Sub.2/2002/L.16)

9. The draft resolution was adopted.

10. Mr. ALFONSO MARTÍNEZ said that, for the reasons he had been expressing since 1998, there were some other elements that should have been included in the draft resolution, but it had not been possible to reach a decision to that effect.

Draft resolution on the relationship between the enjoyment of economic, social and cultural rights and the right to development, and the working methods and activities of transnational corporations (E/CN.4/Sub.2/2002/L.17)

11. Mr. GUISSÉ said that the words "together with" in paragraph 3, second line, should be replaced by the word "and", and that the word "norms" in paragraph 5, second line, should become "draft norms".

12. Mr. WEISSBRODT said that, also in paragraph 5, the words "the members of" in the first line should be deleted, and the words "the working group and" in the penultimate and last lines should also be deleted.

13. The draft resolution, as orally revised, was adopted.

Draft resolution on a study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights (E/CN.4/Sub.2/2002/L.18)

14. Mr. SORABJEE said that he wished to become a sponsor of the draft resolution.

15. The draft resolution was adopted.

Draft decision on corruption and its impact on the enjoyment of human rights, in particular, economic, social and cultural rights (E/CN.4/Sub.2/2002/L.20)

16. Mr. GUISSÉ said that the title of the draft decision, and of the corresponding working paper, should be shortened and revised to read "corruption and its impact on the enjoyment of all human rights".

17. The draft decision, as orally revised, was adopted.

Draft resolution on the right to food, and international guidelines for its implementation (E/CN.4/Sub.2/2002/L.28)

18. Mr. EIDE said that the words "with the participation of stakeholders" should be added to the end of the third preambular paragraph, and the existing paragraph 4 should be replaced by the following text:

> "*Recommends* that the process of elaborating the guidelines on the right to food should start with a broad consultation of ideas and recommendations among all stakeholders, including non-governmental and intergovernmental organizations."

19. Mr. RODRÍGUEZ-CUADROS said that he wished to become a sponsor of the draft resolution.

20. The draft resolution, as orally revised, was adopted.

Draft resolution on human rights, trade and investment (E/CN.4/Sub.2/2002/L.29)

21. Mr. GUISSÉ said that the title was far too general in scope. He would appreciate an explanation of the precise purpose of the draft resolution.

22. Mr. EIDE said that the draft resolution was intended as a follow-up to the report by the High Commissioner for Human Rights on the liberalization of trade in services and human rights (E/CN.4/Sub.2/2002/9).

23. The draft resolution was adopted.

Draft resolution on the Social Forum (E/CN.4/Sub.2/2002/L.33)

24. Mr. BENGOA said that the word "annual" should be inserted before "intersessional forum" in paragraphs 1 and 13.

25. Mr. RODRÍGUEZ-CUADROS and Ms. RAKOTOARISOA said that they wished to become sponsors of the draft resolution.

26. Mr. ALFONSO MARTÍNEZ drew attention to the provisions in paragraph 1, which introduced changes to the way that the Social Forum would be organized in the future. The convening of the first session of the Social Forum over the two days immediately before the beginning of the Sub-Commission's fifty-fourth session had made it impossible for many Sub-Commission experts to attend, owing to prior commitments. In future, therefore, the experts themselves, in their five regional groups, would be responsible both for setting the date of the Social Forum, and for choosing the two members from each group who would act as representatives.

27. Mr. RODRÍGUEZ-CUADROS said that, as he understood it, the Secretariat would also be involved, through prior consultations with all the members of the Sub-Commission, in setting the date for the Social Forum.

28. Mr. GUISSÉ said that the first session of the Social Forum had been convened at the same time as a meeting of the Working Group on Indigenous Populations, even though some members of the latter had also been appointed to attend the former. Such overlaps must be avoided in the future.

29. Mr. ADIYIA (Secretariat), speaking in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, said that the adoption of the draft resolution on the Social Forum would have financial implications

amounting to some $130,000. No activities had so far been identified for modification or curtailment under the budget of the High Commissioner for Human Rights for the biennium 2002-2003, in order to accommodate that additional requirement.

30. Mr. ALFONSO MARTÍNEZ asked the Secretariat to provide a breakdown of the predicted costs amounting to $130,000.

31. Mr. ADIYIA (Secretariat) said that the financial implications would arise from the participation of four representatives of smaller groups and grass-roots organizations from Eastern Europe, Africa, Latin America and Asia, at a cost of $26,756, and the recruitment of a consultant, at a cost of $103,000.

32. Mr. ALFONSO MARTÍNEZ asked whether the daily subsistence allowance and travel expenses of Sub-Commission members appointed to the Social Forum had also been included.

33. Mr. BENGOA said that he had been unaware of the plans to recruit a consultant for work on the Social Forum.

34. The CHAIRPERSON asked the Secretariat to provide the breakdown of financial implications in writing for submission to the Sub-Commission at its next meeting.

Draft resolution on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty (E/CN.4/Sub.2/2002/L.34)

35. Mr. CHEN, Ms. ZERROUGUI and Mr. DECAUX said that they wished to become sponsors of the draft resolution.

36. Mr. RODRÍGUEZ-CUADROS said he wished to reassure the non-governmental organizations (NGOs) which had expressed concern that, although the draft resolution established a procedure for the proposed study on poverty and human rights, the discussion on the concept and content of that study would be an open one. It was precisely for that reason that the proposed seminar would be organized on the most comprehensive basis possible, including NGOs and organizations of the poor.

37. Mr. ALFONSO MARTÍNEZ said that the concept of poverty appeared to be becoming ever more relative. He suggested that the time had come to undertake a comprehensive examination of poverty in general.

38. The draft resolution was adopted.

Draft resolution on the optional protocol to the International Covenant on Economic, Social and Cultural Rights (E/CN.4/Sub.2/2002/L.50)

39. Mr. RODRÍGUEZ-CUADROS and Ms. ZERROUGUI said that they wished to become sponsors of the draft resolution.

40. The draft resolution was adopted.

PREVENTION OF DISCRIMINATION

(a) RACISM, RACIAL DISCRIMINATION AND XENOPHOBIA

(b) PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES

(c) PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (agenda item 5) (continued) (E/CN.4/Sub.2/2002/L.4, L.22, L.24, L.31, L.32, L.37-L.40, L.42 and L.47)

Draft resolution on indigenous peoples' permanent sovereignty over natural resources (E/CN.4/Sub.2/2002/L.4)

41. The draft resolution was adopted.

Draft resolution on the rights of minorities (E/CN.4/Sub.2/2002/L.22)

42. Mr. EIDE said that the word "procedure" in paragraph 11 should be replaced by the word "mechanism".

43. Mr. ADIYIA (Secretariat), speaking in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, said the words "without financial implications" in paragraph 9 meant "at no cost to the Secretariat" and did not imply, as they might in other cases, any instructions to absorb the cost within existing resources. He also drew attention to part B, section VI of General Assembly resolution 45/248, which reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions (ACABQ).

44. Mr. BENGOA said that all the members of the Sub-Commission were well aware that the studies they produced had no financial implications. However, the Secretariat should note that the proposal to organize regional seminars (paras. 5 and 6) would have financial implications.

45. In answer to a question from Mrs. WARZAZI, Mr. ADIYIA (Secretariat) said that the translation and distribution of the proposed study would be carried out as part of normal Secretariat procedures.

46. The draft resolution, as revised, was adopted.

Draft resolution on the Working Group on Indigenous Populations (E/CN.4/Sub.2/2002/L.24)

47. Mr. RODRÍGUEZ-CUADROS said that he wished to become a sponsor of the draft resolution.

48. The draft resolution was adopted.

Draft resolution on the rights of non-citizens (E/CN.4/Sub.2/2002/L.31)

49. Mr. DECAUX said that he wished to become a sponsor of the draft resolution.

50. The draft resolution was adopted.

Draft decision on affirmative action (E/CN.4/Sub.2/2002/L.32)

51. The CHAIRPERSON said that the sponsors had decided to withdraw the draft decision.

Draft decision on recognition of the meritorious work done by Dr. Erica-Irene Daes as Chairperson-Rapporteur of the Working Group on Indigenous Populations (E/CN.4/Sub.2/2002/L.37)

52. Mr. ALFONSO MARTÍNEZ said the words "for life" should be added at the end of the sentence.

53. The draft decision, as revised, was adopted.

Draft resolution on the International Decade of the World's Indigenous People (E/CN.4/Sub.2/2002/L.38)

54. Mr. KARTASHKIN and Ms. O'CONNOR said that they wished to become sponsors of the draft resolution.

55. Mr. ADIYIA (Secretariat), speaking in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, said that the total cost of the additional activities proposed under the draft resolution amounted to US$ 95,350 for the biennium 2002-2003. No provision for those costs had been made under the programme budget for the biennium 2002-2003. Conference service costs would be absorbed into existing resources.

56. The draft resolution was adopted.

Draft resolution on the presentation of the report of the Working Group on Indigenous Populations on its twentieth and twenty-first sessions to the Permanent Forum on Indigenous Issues (E/CN.4/Sub.2/2002/L.39)

57. The draft resolution was adopted.

Draft resolution on the Working Group on Indigenous Populations (E/CN.4/Sub.2/2002/L.40)

58. Mr. ALFONSO MARTÍNEZ said that the words "fifteenth session" in paragraph 19 should be replaced by the words "sixteenth session" and that the words "fifty-fifth session of the Sub-Commission in 2002" in the last paragraph should be replaced by the words "fifty-fifth session of the Sub-Commission in 2003".

59. The draft resolution, as revised, was adopted.

Draft decision on discrimination based on work and descent (E/CN.4/Sub.2/2002/L.42)

60. Mr. SORABJEE requested Mr. Eide and Mr. Yokota, as the proposed authors of the working paper, to pay particular attention to the question of whether the effects of any positive steps that had been taken did, in fact, filter down to the sectors most in need.

61. The draft decision was adopted.

Draft resolution on the concept and practice of affirmative action (E/CN.4/Sub.2/2002/L.47)

62. Mr. DECAUX said the word "*Requests*" in paragraph 6 should be replaced by the words "*Requests* the Commission on Human Rights to provide".

63. Mr. OGURTSOV, Mrs. WARZAZI, Ms. MOTOC, Mr. SORABJEE and Mr. SATTAR said that they wished to become sponsors of the draft resolution.

64. The draft resolution, as revised, was adopted.

SPECIFIC HUMAN RIGHTS ISSUES:

(a) WOMEN AND HUMAN RIGHTS

(b) CONTEMPORARY FORMS OF SLAVERY

(c) NEW PRIORITIES, IN PARTICULAR, TERRORISM (agenda item 6) (continued) (E/CN.4/Sub.2/2002/L.7, L.19, L.21, L.23, L.25-L.27, L.30, L.35, L.36, L.41, L.43 and L.45)

Draft decision on the humanitarian situation of the Iraqi population (E/CN.4/Sub.2/2002/L.7)

65. Ms. ZERROUGUI said that, although she was one of the authors of the draft decision, her name had been omitted from the list of sponsors.

66. Mr. GUISSÉ, Mr. KARTASHKIN and Ms. O'CONNOR said that they wished to become sponsors of the draft decision.

67. The draft decision was adopted.

68. Mr. GUISSÉ, explaining his position, said that the decision was not just related to an individual country situation, as might be thought, but concerned an essentially humanitarian situation affecting the health of the general population, particularly children.

69. Mr. WEISSBRODT, supported by Ms. HAMPSON, said that, although he was fully aware of the concerns addressed by Mr. Guissé and Mrs. Warzazi in drafting the decision, he nevertheless found the Sub-Commission's adoption thereof problematic in the light of the

request by the Commission on Human Rights not to mention specific country situations. At the same time, the Commission had had ample opportunity to correct the Sub-Commission on similar occasions in the past and had not done so, and that, he assumed, implied authorization. Consequently, he had joined the consensus.

70. Mr. PARK said he agreed with Mr. Weissbrodt and Ms. Hampson. The restriction imposed by the Commission must be interpreted in such a way as to promote human rights in general.

Draft resolution on international protection for refugees (E/CN.4/Sub.2/2002/L.19)

71. Ms. HAMPSON said that the sponsors had decided to withdraw the draft resolution.

Draft resolution on international protection for refugees (E/CN.4/Sub.2/2002/L.45)

72. Ms. HAMPSON said that the words "whose applicability is embedded in customary international law" in paragraph 1 should be replaced by the words "as enshrined in international law" and the deleted paragraph 8 should stand, becoming paragraph 9.

73. The list of sponsors was the same as those for the withdrawn draft resolution E/CN.4/Sub.2/2002/L.19, with the exception of Mrs. Warzazi and Mr. Kartashkin. She, herself too, should be included among the sponsors.

74. Mr. KARTASHKIN said that the draft resolution, although based on draft resolution E/CN.4/Sub.2/2002/L.19, introduced certain elements that he believed were in conflict with the provisions of international humanitarian law, and that was why he was withdrawing his sponsorship. He would not, however, object to adoption of the draft resolution by consensus.

75. Mrs. WARZAZI said that not all the sponsors of E/CN.4/Sub.2/2002/L.19 had been consulted about its replacement by E/CN.4/Sub.2/2002/L.45. She would not be joining the consensus.

76. Mr. PARK said that, while he understood that there had been some confusion, E/CN.4/Sub.2/2002/L.45 was an improvement on E/CN.4/Sub.2/2002/L.19, and he thanked those who had supported it.

77. Mr. CHEN, supported by Mr. SORABJEE, said that the chapeau should be replaced by a correct list of sponsors.

78. Mr. RODRÍGUEZ-CUADROS said that he wished to become a sponsor of the draft resolution.

79. Mr. CHEN said that the word "people" in paragraph 8 was too abstract. The draft resolution was not concerned with protection for all but with protection for refugees. He proposed that the word "people" be replaced by the word "refugees".

80. Ms. HAMPSON said that the reason that paragraph 8 referred to "people" was that, under international law, States had an obligation towards all people, and not just refugees, to ensure that no one was returned to territories where he or she had a well-founded fear of being persecuted. To talk of "refugees" only would be misleading, as it would suggest that they were the only persons so protected.

81. Mr. ALFONSO MARTÍNEZ said that he agreed completely with Mr. Chen's proposed amendment. It was inappropriate to introduce other categories of people into a draft resolution aimed at the protection of refugees. Moreover, referring to "refugees" in paragraph 8 would not mean that refugees were the only people enjoying the form of protection under consideration; other categories of people were dealt with in other texts.

82. Mr. YOKOTA said that he strongly supported Ms. Hampson's view. The intention was to reflect the provisions, especially articles 13, paragraph 2 and 14, paragraph 1, of the Universal Declaration of Human Rights, under which everyone had the right to leave any country and return to his or her country and to seek asylum in other countries.

83. Mr. ALFONSO MARTÍNEZ said that article 13 of the Universal Declaration of Human Rights had absolutely nothing to do with the problem raised by Mr. Chen and himself.

84. Mr. KARTASHKIN said that he still had problems with paragraphs 1 and 8 but, as there was so little time to discuss them, members should perhaps simply vote on the draft resolution.

85. Ms. HAMPSON said that the removal of the reference to customary international law meant there was no longer anything controversial in paragraph 1. As for the rest, there was no principle in the draft resolution that did not accurately reflect the current state of international law. There was nothing wrong with mentioning a broader category of people in a draft resolution aimed at a specific group.

86. Mr. SATTAR suggested that "people" be replaced by "asylum-seekers".

87. Mr. CHEN said that the legal basis for his pro sed amendment was article 33, paragraph 1, of the Convention relating to the Status of Refugees, which specified that: "No Contracting State shall expel or return ... a refugee in any manner whatsoever to the frontiers of territories where his life or freedom wou'd be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

88. Ms. HAMPSON cited as the sources of the authority for the proposition that no person could be returned to territories where they had a well-founded fear of being persecuted the Universal Declaration of Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the mandate of the Special Rapporteur on the question of torture, the International Covenant on Civil and Political Rights and a number of regional instruments.

89. After a procedural discussion in which Mr. KARTASHKIN, Mr. YIMER, Mr. RODRÍGUEZ-CUADROS, Mr. SATTAR, Mr. ALFONSO MARTÍNEZ and Mr. PARK took part, Mr. CHEN requested a vote on his proposal that the word "people" be replaced by the word "refugees" in paragraph 8 of the draft resolution.

90. The amendment was rejected by 13 votes to 9, with 2 abstentions.

91. Mr. GUISSÉ and Mr. PREWARE said that they wished to withdraw their sponsorship of the draft resolution.

92. At the urging of Mrs. WARZAZI, and in the interests of reaching consensus on what was fundamentally a humanitarian issue, Mr. GUISSÉ said he would not insist on a vote on the draft resolution.

93. The draft resolution was adopted.

94. Mr. ALFONSO MARTÍNEZ and Mr. SATTAR said that they had voted in favour of the amendment and would have abstained if there had been a vote on the draft resolution itself.

95. Mr. CHEN said he had not insisted on a vote on the draft resolution because he agreed with much of its content, but he still had some very serious reservations. In particular, he disagreed strongly with the use of the word "people" in paragraph 8, which could be misleading in that it could apply not just to refugees but also to migrant workers, non-citizens, traffickers or criminals. The international protection of refugees, which was well provided for in the Convention relating to the Status of Refugees, was not enhanced by the inclusion of the word "people" in the resolution. He invited Ms. Hampson to tell him in precisely which international human rights instrument the word "people" was used to refer to "refugees".

96. Mr. GUISSÉ said that, if there had been a vote on the draft resolution, he would have voted against it. The simultaneous circulation of two draft resolutions on the same subject, only one of which (E/CN.4/Sub.2/2002/L.19) listed the sponsors, had led to unnecessary confusion. It was an inelegant procedure and should be avoided in the future.

97. Mr. PREWARE said that it would have been more logical to retain the original version of the draft resolution (E/CN.4/Sub.2/2002/L.19) as the basis for the discussions. While he supported the principles embodied in the draft resolution that had just been adopted, he was not particularly happy about some of the language in it and would have preferred the amendment proposed by Mr. Chen.

98. Mr. RODRÍGUEZ-CUADROS said that he had voted against the amendment because all current international human rights instruments and customary international law placed obligations on States to protect the human rights of every person in their territory. Consequently, any State that returned people to territories where they would be in fear of their lives or where their liberty was at risk would be failing to comply with those obligations.

Draft resolution on terrorism and human rights (E/CN.4/Sub.2/2002/L.21)

99. Mr. ADIYIA (Secretariat), speaking in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, said, with reference to paragraph 8 of the draft resolution, that he wished to draw the attention of the Sub-Commission to part B, section VI, of General Assembly resolution 45/248, which reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions.

100. Mr. RODRIGUEZ-CUADROS said that he wished to become a sponsor of the draft resolution.

101. The draft resolution was adopted.

Draft resolution on the prevention of human rights violations caused by the availability and misuse of small arms and light weapons (E/CN.4/Sub.2/2002/L.23)

102. Mr. PREWARE said that he wished to become a sponsor of the draft resolution.

103. Mr. ALFONSO MARTÍNEZ said that he wished to make a comment that applied not only to the draft resolution under consideration but also to all draft resolutions that included a recommendation for the appointment of a new special rapporteur. The proper way to draft such a recommendation was to include in the draft resolution the text of the draft decision to be submitted by the Sub-Commission to the Commission on Human Rights for submission, in turn, to the Economic and Social Council, the organ that took the final decision on whether or not to appoint a new special rapporteur.

104. Mr. ADIYIA (Secretariat), speaking in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, said, with reference to paragraph 6 of the draft resolution, that he wished to draw the attention of the Sub-Commission to part B, section VI, of General Assembly resolution 45/248, which reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions.

105. The draft resolution was adopted.

106. Mr. GUISSÉ said that the study in question should not be restricted to establishing the responsibility of the States where small arms circulated but should also address the responsibility of the States in which those arms were manufactured.

Draft resolution on traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/2002/L.25)

107. Mr. RODRIGUEZ-CUADROS said that he wished to become a sponsor of the draft resolution.

108. Mr. YIMER suggested that, in order to do justice to the strength of feeling within the Sub-Commission on the subject of the draft resolution and in view of the large number of its sponsors, the draft resolution should be adopted unanimously.

109. The draft resolution was adopted unanimously.

110. Mr. GUISSÉ said that harmful traditional practices must be eradicated, but the fact that they were traditional practices meant that they would not disappear overnight and would have to be eradicated gradually.

Draft resolution on the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/2002/L.26)

111. Mrs. WARZAZI said that, as almost every member of the Sub-Commission was a sponsor of the draft resolution and all were agreed on the seriousness of the problem it dealt with, it too should be adopted unanimously.

112. The draft resolution was adopted unanimously.

Draft resolution on the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (E/CN.4/Sub.2/2002/L.27)

113. The draft resolution was adopted.

Draft decision on reservations to human rights treaties (E/CN.4/Sub.2/2002/L.30)

114. Mr. WEISSBRODT and Mr. RODRIGUEZ-CUADROS said that they wished to become sponsors of the draft decision.

115. The draft decision was adopted.

Draft decision on the regulation of citizenship by successor States (E/CN.4/Sub.2/2002/L.35)

116. Mr. RODRIGUEZ-CUADROS said that he wished to become a sponsor of the draft decision.

117. The draft decision was adopted.

Draft decision on women and human rights (E/CN.4/Sub.2/2002/L.36)

118. Mr. KARTASHKIN said that the title of the draft decision had been changed to read: "The rights of women married to foreigners".

119. Mr. GUISSÉ asked for his name to be withdrawn from the list of sponsors because the change in the title rendered the draft decision ambiguous.

120. The draft decision, as orally revised, was adopted by 21 votes to 1.

121. Mr. ALFONSO MARTÍNEZ, speaking on a point of order, said that there were 25 members of the Sub-Commission but only 22 votes had been counted and there had been no abstentions.

122. The CHAIRPERSON said that the members of the Sub-Commission had a perfect right not to participate in a vote if they did not wish to do so.

Draft resolution on systematic rape, sexual slavery and slavery-like practices (E/CN.4/Sub.2/2002/L.41)

123. Mr. PARK, introducing the draft resolution, said that it reflected complete agreement among the members of the Sub-Commission and he hoped it would be adopted unanimously.

124. Mr. YOKOTA, speaking on a point of order, pointed out that Mr. Park was referring to the original text of the draft resolution which had been distributed during the closed meeting with handwritten modifications, and not the text that was before the Sub-Commission.

125. Mr. PARK said that the first, second and third preambular paragraphs had been replaced by a single paragraph which would read: "*Recalling* its resolutions 2001/20 of 16 August 2001 and 2002/5 of 12 August 2002". The first line of the last preambular paragraph had been modified to read: "*Mindful* of its resolution 2002/5 of 12 August 2002 in which ...".

126. Paragraph 3 had been reformulated to read: "*Considers* that the latest verdict of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, acknowledging that rape and, more recently, sexual enslavement are crimes against humanity, and the special recognition by the Rome Statute of the International Criminal Court that sexual violence and sexual slavery committed in the context of either an internal or an international armed conflict may constitute crimes against humanity, war crimes and genocide falling within the jurisdiction of the Court, represent a significant step in the protection of women's human rights as they challenge widespread acceptance that torture, rape and violence against women are an integral part of war and conflict and hold the perpetrators of such crimes accountable."

127. In Paragraph 5, the text after the words "during armed conflicts," had been modified to read: "ensuring the accuracy of accounts of h torical events in an effort to prevent the occurrence of such violations and to encourage a better understanding between all peoples". In paragraph 6, the central portion of the text had been deleted leaving the wording: "*Calls upon* the High Commissioner for Human Rights to submit a report to the Sub-Commission at its fifty-fifth session on the issues of systematic rape, sexual slavery and slavery-like practices during armed conflicts."

128. Mr. KARTASHKIN said that the situation regarding the current draft resolution was quite abnormal: it had only just been introduced and yet extensive changes had already been made. As at the previous session of the Sub-Commission, far too little time had been allocated to the discussion of agenda item 6. Of a total of 48 draft resolutions, 18 - or almost half - related to that item. He called upon all members to ensure that, at the forthcoming session, item 6 would receive a sufficient allocation of time.

129. Mr. BENGOA said that, having heard the changes made by the sponsors, he, too, wished to become a sponsor of the draft resolution.

130. Mr. YOKOTA said that he wished to add his name to the list of sponsors of the revised draft resolution.

131. Mrs. WARZAZI, Mr. RODRIGUEZ-CUADROS, Mr. GUISSÉ, Ms. HAMPSON and Ms. ZERROUGUI indicated that they wished to become sponsors of the draft resolution.

132. The draft resolution, as orally revised, was adopted.

Draft decision on human rights and weapons of mass destruction, or with indiscriminate effect, or of a nature to cause superfluous injury or unnecessary suffering (E/CN.4/Sub.2/2002/L.43)

133. Mr. ALFONSO MARTÍNEZ, introducing the draft decision, explained that it followed up on the work which Mr. Sik Yuen had begun during the current year. In the ninth line of the English text, the word "excellent" before the words "working paper" should be deleted. At the end of the text, after the words "fifty-fifth session", the following phrase should be added: "in which due attention should be paid to the comments and proposals advanced during the debate this year on his first working paper (E/CN.4/Sub.2/2002/38)". He hoped those changes would be acceptable to the sponsors as he had not had time to consult them all.

134. Mr. EIDE, supported by Ms. HAMPSON, proposed that the vote on the draft decision should be postponed until the next meeting to allow time for consultation.

135. Mr. GUISSÉ, supported by Mr. BENGOA, said that there was no reason to postpone the voting as all that was being discussed was the beginning of a study and the way in which it should be continued.

136. Ms. O'CONNOR, Mr. BENGOA, Mr. RODRIGUEZ-CUADROS, Mr. GUISSÉ and Ms. ZERROUGUI said that they wished to become sponsors of the draft decision.

137. Ms. HAMPSON proposed that, in line 10, after the words "decides to request Mr. Sik Yuen" the words "and Ms. Hampson" should be added. In line 11, she proposed that the words "an expanded and updated" be replaced by "a further" and that, after the words "working paper on", a phrase should be added to read: "a human rights analytical framework for examination of issues relating to the possibilities and use of weapons with indiscriminate effect and conventional weapons, taking into account international humanitarian law, the work of the International Committee of the Red Cross and other sources of relevant information".

138. There were two reasons for her proposed amendments: firstly, if a further report was sought or the appointment of a special rapporteur decided upon by the Commission, it was inconceivable that someone who was not a member of the Sub-Commission would be appointed, hence the need for a member of the Sub-Commission (herself) to join Mr. Sik Yuen in submitting the report. Secondly, the addition giving details of the contents of the report addressed the need for a much clearer legal framework for the working paper.

139. Mr. GUISSÉ said that it was not the first time a former Sub-Commission member had continued working on a paper after the expiry of his or her mandate and such persons had never needed assistance before.

140. Mr. ALFONSO MARTÍNEZ said that he found the proposed amendments totally unacceptable. He agreed with Mr. Guissé and noted that no request had yet been made for the appointment of a special rapporteur.

141. Mrs. WARZAZI, speaking on a point of order, asked that a vote be taken on the proposed amendments.

142. The proposed amendments were rejected by 14 votes to 4, with 3 abstentions.

143. Mr. KARTASHKIN, speaking in explanation of vote before the voting, said that, due to lack of time available on item 6, it was not appropriate to be voting the serious proposals, such as those made by Ms. Hampson, in the space of two or three minutes. Consequently, he would abstain from voting on the current draft decision, and any subsequent ones, because he had had no opportunity to determine his position.

144. Mr. SATTAR pointed out that there were actually four ways of voting, in favour, against, abstaining and not participating in the vote. He himself had not participated in the vote on the proposed amendment because it involved several different issues which had been put to the vote together. Ms. Hampson's proposal regarding the instruments and documents to be taken into account in the study was a very constructive one and he hoped that the Secretariat would bring it to the attention of the person preparing the report.

145. Mr. WEISSBRODT said that he had grave doubts about the quality of the working paper, which confused the various categories of weapons and did not adequately cite the International Court of Justice decision or the relevant Human Rights Committee resolution. It was not a good idea that a former member of the Sub-Commission should be asked to produce an expanded working paper. It was also unusual for a member of the Sub-Commission to nominate herself to be the co-author of a study. The Sub-Commission had simply been pushing ahead too rapidly as a result of time restraints and there had been no opportunity for consultation among colleagues.

146. The draft decision, as orally revised, was adopted by 17 votes to 3, with 2 abstentions.

The meeting rose at 6 p.m.